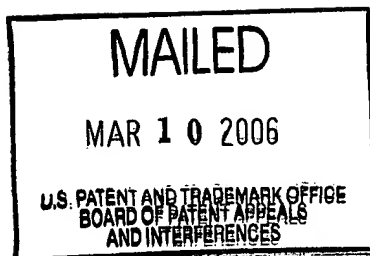


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ERIC LEVY-ABEGNOLI
and
PASCAL THUBET

Application 09/853,443

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on January 30, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

A review of the Image File Wrapper (IFW) indicates that appellants filed an Appeal Brief on August 2, 2005 using the format set forth in 37 CFR § 41.37(c). The "Status of the Claims" section listed on page 2 states that "[c]laims 1-80 are pending in the application." The "Status of Claims" appearing on

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page 2 of the Examiner's Answer mailed September 16, 2005 agrees. However, the "Claims Rejections" section appearing on pages 3-5 of the Answer reads as follows:

1. Claims 1, 2, 4, 7-12, 14-17, 20-24, 26, 28-32, 35, 36, 38-47, 50-62, 65, 66, 68-71, 73, 75-80 are rejected under 35 U.S.C. 102(e) as being anticipated by Gennaro, U.S. Patent No. 6,317,834; and
2. Claims 25, 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gennaro, U.S. Patent No. 6,317,834, in view of Huang, U.S. Patent No. 5,856,789.

It should be noted that the Final Rejection mailed March 21, 2005 and the Examiner's Answer mailed September 16, 2005 do not appear to discuss the rejection of claims 3, 5, 6, 13, 18, 19, 27, 33, 34, 37, 48, 49, 63, 64, 67, and 74. Appropriate correction is required.

In addition, the Examiner's Answer mailed September 16, 2005 does not comply with the headings set forth in the new rules under 37 CFR § 41.37(c) because it does not list the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the § 102(e) and § 103(a) rejections. Correction is required.

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Accordingly, it is

ORDERED that the application is returned to the

Examiner:

- 1) for a determination regarding the status of claims 3, 5, 6, 13, 18, 19, 27, 33, 34, 37, 48, 49, 63, 64, 67, and 74;
- 2) to vacate the Examiner's Answer mailed September 16, 2005, and issue a new Examiner's Answer in compliance with the new rules which became effective on September 13, 2004 which includes a proper response to the section entitled "Evidence Relied Upon";
- 3) to have a complete copy of any subsequent Examiner's Answer scanned into the IFW; and
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

CRAIG R. FEINBERG
Program and Resource Administrator
(571) 272-9797

CRF:psb

Williams, Morgan & Amerson
10333 Richmond, Suite 1100
Houston, TX 77042